



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/451,592	11/30/1999	KRISHNA MANGIPUDI	20496/2	9253

7590 01/24/2003

BRIAN L MICHEALIS ESQ
BROWN RUDNICK FREED & GESMER
18TH FLOOR
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER

NGUYEN, THU HA T

ART UNIT	PAPER NUMBER
----------	--------------

2155

DATE MAILED: 01/24/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/451,592

Applicant(s)

MANGIPUDI ET AL.

Examiner

Thu Ha T. Nguyen

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-16 are presented for examination.

Response to Arguments

2. Applicant's arguments filed on November 14, 2002 have been fully considered but they are not persuasive because of the following reasons:

3. Applicants argue that Bhoj does not teach or anticipate "defining acceptance levels for each parameter in said set of parameters" and no "measured parameters" term recited by Bhoj. In response to Applicants argument, Examiner concludes that Bhoj does teach or suggest or mention "defining acceptance levels for each parameter in said set of parameters" and "measured parameters" as shown in col. 5 lines 65-col. 6 lines 61, col. 7 lines 22-col. 10 lines 7.

4. Applicants argue that Bhoj does not teach or suggest "comparing said acceptance levels to said real time information". In response to Applicants argument, Examiner concludes that Bhoj does teach or suggest "comparing said acceptance levels to said real time information" as shown in col. 7 lines 39-67, col. 11 lines 41-59, col. 13 lines 15-19. The service manager 200 compares the abstract view to the system behavior as mentioned in col. 11 lines 41-59 and provides customers the current value of service metrics. That means the manager 200 has to compare with real time information to get the current value.

5. Furthermore, Applicants argue that Bhoj does not teach or suggest the step of defining classes of back end servers and selecting a set of service parameters to be monitored. Examiner concludes that Bhoj does teach or suggest the step of

Art Unit: 2155

defining classes of back end servers and selecting a set or service parameters to be monitored as shown in figures 2-3, col. 4 lines 39-col. 6 lines 14, col. 6 lines 63-col. 7 lines 38.

6. Further Applicants argue that Fletcher does not teach or disclose a web-site comprising at least one back-end server and a monitoring processor determining which of said collected parameters exceed a corresponding acceptance level. In response to Applicants' argument, Examiner concludes that Fletcher does teach or disclose a web-site comprising at least one back-end server and a monitoring processor determining which of said collected parameters exceed a corresponding acceptance level as shown in fig. 3 col. 6 lines 26-34, col. 8 lines 7-col. 9 lines 30, col. 22 lines 67-col. 23 lines 7, col. 23 lines 55-col. 26 lines 31.

7. Therefore, the Examiner asserts that cited prior arts teach or suggest the subject matter broadly recited in independent claims 1, 6, and 9. Claims 2-5, 7-8, and 10-16 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in the previous office action [see paper no. 4]. Accordingly, claims 1-16 are respectfully rejected.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the

Art Unit: 2155

requirements of paragraphs (1), (2), and (4) of section 37 1(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1-5 and 9-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Bhoj et al (hereinafter Bhoj) U.S. Patent No. 6,304,892.

10. Regarding claim 1, Bhoj discloses a method comprising steps of defining a set of parameters to be measured (cols. 5-6 lines 65-34 and col. 7 lines 22-38); defining acceptance levels for each of parameters in said set of parameters (see col. 6 lines 35-61); collecting real-time information related to measurement of said parameters (see col. 11 lines 24-40 and col. 15 lines 7-18); comparing said acceptance levels to said real-time information (see col. 11 lines 41-54); and generating report (see col. 14 lines 39-44 and col. 15 lines 25-30).

11. Regarding claim 9, Bhoj discloses a method comprising steps of defining classes of back-end servers (see fig. 2, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM) (see col. 7 lines 14-21); selecting a set of service parameters to be

monitored (see col. 12 lines 61-67); creating a database of monitored service parameters (see cols. 11 lines 5-6); and preparing reports and/or alarms (see col. 14 lines 39-44 and col. 15 lines 25-30).

12. Regarding claim 2, Bhoj discloses providing a format in which a set of servers will provide information to be measured (see cols. 9-10 lines 62-7); and implementing means for collecting said information (see col. 11 lines 29-35).

13. Regarding claim 3, Bhoj discloses generating a database entry for each service commitment element of a service level agreement (see cols. 11-12 lines 66-6).

14. Regarding claims 4 and 12, Bhoj discloses the set of parameters to be measured is selected from the set consisting of records of performance, transactions, errors, client IP address, username, date, time, service, server name, server IP address, processing time, bytes sent, bytes received, service status, operation, target URL, User Agent, referrer parameters, and cookie (see cols. 8-9 lines 38-24).

15. Regarding claims 5 and 13, Bhoj discloses the real-time information collected further includes information selected from the group consisting of assigned disk space, that the user can access, how the user's request is fulfilled within the system or web farm, user's subscribed level of service or class, transaction, number of requests, download size, file size, file type, time of day, week or month, response time

Art Unit: 2155

of the back end servers', response time of the web farm, and how long it takes to complete a specified request or file (see col. 9 lines 25-52).

16. Regarding claim 10, Bhoj discloses a graphical user interface (see fig. 10, col. 14 lines 39-44).

17. Regarding claim 11, Bhoj discloses preparing reports and /alarms (see col. 15 lines 25-34).

18. Regarding claim 14, service-level commitments include metrics (see col. 13 lines 15-19).

19. Regarding claims 15 and 16, Bhoj discloses defining classes of back-end servers (see fig. 2, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM) (see col. 7 lines 14-21).

20. Claims 6-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Fletcher et al (hereinafter Fletcher) U.S. Patent No. 6,269,401.

21. Regarding claim 6, Fletcher discloses an apparatus comprising a web-site comprising at least one back-end server (see fig. 3 col. 6 lines 26-34) and reporter (see abstract); a network (see col. 6 lines 26-55); a collection processor measuring and

collecting a set of defined parameters (see cols. 6-8 lines 56-56); a monitoring processor determining which of said collected parameters exceed a corresponding acceptance level (see col. 25 lines 27-39); and a reporting process that produces a report results of said monitoring processor (see col. 25 lines 27-37).

22. Regarding claim 7, Fletcher teaches monitoring a set of defined parameters and logging them into respective log files (see col. 6 lines 40-43); scheduler triggering said reporter to begin collection of log files from a list of back-end server (see col. 8 lines 735); an accumulator requesting log files from the intelligent agent of each listed backend server and consolidating the log files into a database (see cols 24-25 lines 51-26); an interface mechanism between said accumulator and each of intelligent agent (see col. , said interface mechanism ensuring that each requested log file is completely transferred to the accumulator prior to starting consolidation (see col. 25 lines 3-26).

23. Regarding claim 8, Fletcher teaches keeps track of which portions of said log files have been transferred (see col. 24 lines 29-50).

Conclusion

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2155

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen whose telephone number is (703) 305-7447. The examiner can normally be reached on Monday- Friday, 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz sheikh can be reached on (703) 305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Thu Ha Nguyen

January 22, 2003


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100